

DEC 9 1981

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted indicates that you were incorporated under the State of [REDACTED] Non-Profit Corporation Act on [REDACTED]. You are organized exclusively for educational purposes; including for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code of 1954.

You hold educational conferences, provide technical assistance to your members, promote the principles of the cooperative movement by participating in community fairs, bazaars, rallies, etc., and publishing two newsletters. The newsletters contain articles which discuss the formation, operations, and tax treatment of cooperatives, and items that would be of interest to members of a cooperative.

Your services include educational programs for your members and the public. The services provided to the public is aimed at introducing the concept of cooperatives to a large audience and acquainting the public with basic cooperative principles. The services provided to members are also educational but are more specific and include such items as how to read financial statements, tax laws regarding cooperatives, consensus decision-making, training for board members, etc.

You are a membership organization which is open to any individual or group which supports your purposes and shows an ability to consistently support and participate in your activities. The [REDACTED] issue of [REDACTED] states that you have [REDACTED] supporting members (those that fund you). All are consumer co-ops, with [REDACTED] bike co-op, [REDACTED] credit union, [REDACTED] food-buying clubs, and [REDACTED] storefront food co-ops. You also have [REDACTED] participating members (those who have stated that they wish to participate but cannot fund you).

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname		[REDACTED]					
Date		12-23-81					

The financial information you submitted indicates that you will be funded by gifts, grants, membership dues, literature and publication sales, educational workshops and conferences, and technical assistance projects. Membership fees for consumer goods cooperatives are 10% of gross sales; buying clubs are 10% of purchases; cooperative warehouses are 10% of gross sales; and are negotiable for other types of cooperatives. Associate members pay \$10 annually and individual members \$20 annually. Your [redacted] Year Schedule indicates that there is a charge for most of your services and that members are charged less, if any, for your services than non-members.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(1) Corporations, not And, or foundation, organized and operated exclusively for religious, charitable, scientific, or literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involved the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

"(a)(1) In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt."

"(c)(1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

"(d) (1) (ii) An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests."

Revenue Ruling 76-146, 1976-2 Cumulative Bulletin 144, provides that an association of investment clubs formed to enable members and prospective investors to make sound investments by the mutual exchange of investment information, that carries on not only educational activities but other activities directed to the support and promotion of the economic interests of its members, does not qualify for exemption under section 501(c)(3) of the Code.

The association engaged in the following activities: (a) Prepared and published teaching aids for the use of its member clubs; (b) Conducted workshops, seminars, and courses at which manuals designed for the review of securities and especially suited for investment club requirements were distributed to members and prospective investors; (c) Sponsored lectures at which qualified experts discussed topics relating to the management of a stock portfolio; (d) Arranged field trips to business offices, factories, banks and stock exchanges; (e) Published a monthly newsletter of interest to individual investors; (f) Encouraged and aided in the formation of new investment clubs; (g) Established and enforced standards for the operation of investment clubs; (h) Issued certificates of qualification to investment personnel who are capable of organizing and operating new clubs; and (i) Provided individual clubs with technical advice on their organizational, bookkeeping and operational problems.

The ruling states that while some of the association's activities are educational, and of the kind that might be carried on by an organization described in section 501(c)(3) of the Code, many of the activities listed above are directed in whole or in part to the support and promotion of the economic interests of the investment clubs that comprise its membership. These activities are not in furtherance of charitable and educational purposes. Further, by furnishing information to prospective investors to enable them to make sound investments, the association is serving private interests. The association's activities were held to be not exclusively educational.

On construing the meaning of the phrase "exclusively for educational purposes", in Better Business Bureau v. U.S. (336 U.S. 279 (1945)), the Supreme Court of the United States said "This plainly means that the purpose of a single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes."

Based on the information submitted, it is held that you do not meet the operational test of section 501(c)(3). Your operations are similar to the association described in the cited revenue ruling and are directed primarily to and for the benefit of your members.

On [REDACTED], your Centering Committee adopted a program which provided for the following: 1. Technical Assistance and Consultant Service-Areas in which assistance can be provided include: bookkeeping finances, budgeting, membership involvement, legalities, public relations, planning, capitalization, taxes, food stamps, patronage refund systems, meeting process, hiring, starting buying clubs and storefronts, and dealing with general organizational questions; 2. Warehousing and Distribution. Work to insure that your warehousing and distribution network is meeting your needs, and to aid the future development of that network for the benefit of cooperative groups; 3. Local Production and Processing. Researching for crops, contacting local farmers, establishing a Regional Investment Fund, etc. 4. Representation and Lobbying. Represent and lobby for the needs of consumers, co-ops and other groups (as determined by the membership) on any issue except health and nutrition issues. 5. The Membership Newsletter. Publish the newsletter for distribution to the individual members of the cooperative. 6. Publish the newsletter for the co-op organizations or managements. Its contents include: staff reports, budgets, information on issues of concern, dialogues about your organization, educational and informational articles that are helpful to the buying clubs and to the storefronts (as a backup for the technical assistance service), political education articles, announcements and information concerning jobs available in the network, equipment exchanges, and worker exchanges.

Your [REDACTED] program includes developing and publishing at least [REDACTED] information sheets in areas such as management systems, patronage refunds, bookkeeping and financial analysis, board responsibilities, forming preschool co-ops. You plan to lobby against the gross receipts tax on food and plan a comprehensive survey of the needs of co-ops in the nation. You have also offered a contribution toward the legal fees incurred in the transfer of ownership of the New Life Warehouse, and expect to take a more active role in this process in [REDACTED].

The programs enumerated above may have some educational value but they are clearly designed to improve the operations and efficiency of your cooperative members and thereby, promote the economic interests of your members. Such activities as insuring that your warehousing and distribution network meets your needs, research of co-ops, establishing a Regional Investment Fund, establishing new cooperatives, lobbying and aiding in the purchase of the New Life Warehouse cannot be said to be educational nor serving any purpose within the meaning of section 501(c)(3).

The information also indicates that individuals establish and join cooperatives to obtain lower prices and get better products and services. Through your efforts, your cooperative members should be able to provide the low prices and better products and services because of the managerial and technical information you provide them. You are considered to be serving the private interests of the individuals that are members of your cooperative members.

Accordingly, it is held that you do not qualify for recognition of exemption from Federal income tax as an organization described in section 501(c)(3) of the Code. You are required to file an annual Federal income tax return on Form 1120.

Contributions, bequests, legacies, devises, transfers, or gifts to you are not deductible under sections 170, 2055, 2106 and 2572 of the Code.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

(6)

In this determination letter because a final determination, we will notify the appropriate State officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

Sincerely,

  
District Director

Enclosure:  
Form 6018  
Publication 992